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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/993,780
Filing Date: November 16, 2001
Appellant(s): DANIELS, JOHN J.

David Todd
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/29/08 appealing from the Office action

mailed 5/2/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings

known to the examiner which may be related to, directly affect or be directly affected by

or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2006-0604.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,388,714	SCHEIN ET AL	5-2002
5,550,576	KLOSTERMAN	8-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1.   Claims 3-7, 15, 37, 39, 40, 44-47, 64-76, and 78-80 are rejected under 35 U.S.C.

103(a) as being unpatentable over Schein et al (6,388,714) in view of Klosterman

(5,550,576).

Schein et al, in Figures 1-12, discloses an interactive computer system that is

substantially the same network server (e.g. 608-612) that communicates over a network

606 with a recording apparatus (e.g. 34, 36) that is configured to record television

programs as specified in claims 3-7, 15, 37, 39, 40, 44-47, 64-76, and 78-80 of the

present invention, a method for enabling the server to control the recording of one or

more selected television programs (e.g. Fig. 2) by the recording apparatus, the method

comprising the acts of storing a programming schedule at a server (Fig. 11, 608);

storing recording control information (e.g. start time, length, channel, etc.) at the server,

the recording control information including at least one record command that is

transmittable over a network 606 to a recording apparatus 602 that is configured to

record television programming (e.g. Fig. 14); the server receiving a user request (e.g.

logging in the website), which is transmitted to the server through the Internet 606, for a

webpage containing the programming schedule and that identifies one or more

television programs (e.g. 608); in response to the user request, the server providing a

user Internet access to the programming schedule in the form of a navigable webpage

608 and from which a particular television program can be selected by the user for

recording (e.g. Fig. 12); receiving, at the server 608, a user selection of the particular

television program to be recorded, the selection of the particular television program to

be recorded being made from the navigable webpage provided to the user through the

Internet (e.g. Fig. 17).

With respect to claims 3-7, 15, 39, 40, 44-47, 64-76, and 78-80, Schein et al also

discloses the act of receiving information representing a television signal provider (e.g.

30) that is to broadcast the one or more television programs to be recorded by the

interactive television system 2; prior to the act of receiving information representing a

television signal provider 30, the act of transmitting information identifying a plurality of

television signal providers (e.g. cable, commercial, etc.) that are capable of

broadcasting television programs to the interactive television system (Fig.1); wherein

the programming schedule includes a time, date and duration of a plurality of television

programs, including the particular television program to be recorded (e.g. Figs. 12 and

13); wherein the programming schedule includes transmission source information that

identifies at least one of a television broadcast channel (e.g. FOX), a cable channel

(e.g. HBO), and a satellite channel 24; wherein the recording apparatus comprises a

VCR 34; wherein the recording instructions include the time, date and duration of the

particular television program to be recorded (e.g. Figs. 12 and 13); wherein the request

for a programming schedule 608 is received at an Internet web site through the use of a

conventional Web browser (e.g. any internet 606 browser such as Firefox); wherein the

programming schedule is provided through a web page of the server 608 that is

customized for the user 602; wherein prior to providing the programming schedule, user

input 462 is received at the web page (e.g. log in at the website) identifying a television

programming provider 702; wherein the programming information is made available to the user based on a determination (e.g. local cable company servicing the region) of at least one of a caller ID, area code and phone number of the user (e.g. modem dial up access); wherein the programming schedule is based on determining a locality of a user's modem (e.g. local access numbers); wherein the locality of the user's modem is determined according to a caller ID (e.g. area code); wherein the locality of the user's modem is determined according to a phone number (e.g. local or 800 access); wherein the recording instructions are inserted in special television channel 604; wherein the recording instructions are received as a binary ASCII-format character string (e.g. digital signal) that is assigned specific control functions; receiving, at the server 608, a request from a computing system 10 to access a programming homepage (e.g. log in); in response to the request to access the programming homepage, providing the computing system access to the programming homepage (e.g. logged in with correct username and password), the programming homepage identifying a plurality of television signal providers 702; receiving, at the server 608, a selection of an appropriate one of the plurality of television signal providers 702; and in response to the computing system 10 selecting the appropriate television signal provider 702, and upon receiving a request from the computing system 10 for a corresponding program schedule, the server 608 providing the programming schedule (e.g. upon logging in at the website); wherein access to the programming homepage is accessible only after screening a user password (e.g. log in ID); and wherein the recording instructions are received through the Internet 606.

Although Schein et al discloses the particular television program being selected for recording over the network from the server, it is noted Schein et al differs from the present invention in that it fails to particularly disclose the server transmitting recording control information to the recording apparatus in response to the selection as specified in claims 3-7, 15, 37, 39, 40, 44-47, 64-76, and 78-80. Klosterman however, in Figures 1-4, teaches the concept of such well known technique of transmitting the recording control information comprising recording instructions (e.g. source ID, CH, time, etc.) that are configured to cause the recording apparatus 24 to record the particular television program (e.g. Fig. 2) and such that the recording apparatus 24 will thereafter be set up to record the particular television program, and wherein the recording instructions are transmitted to the recording apparatus 24 through at least one of a television signal and the Internet (e.g. 26-30); wherein the recording instructions are embedded in and received with the television signal 26-30; wherein subsequent to downloading recording instructions, and data comprising an end-of VCR control information (e.g. Fig. 4, stop recording function) to the computing system 10.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, having both the references of Schein et al and Klosterman before him/her, to exploit the well known remote control of a recording device as taught by Klosterman in the network server of Schein et al, in order to provide the viewer with a simple, efficient, and economical option of recording desire programs without programming the VCR.

(10) Response to Argument

Appellant asserts on pages 12 of the Brief that neither Schein et al nor

Klosterman discloses sending recording instructions from a server in response to the

selection of television program. However, both Figures 10 and 11 of Schein et al and

Figure 2 of Klosterman illustrate the concept of such well known TV guides containing

recording instructions (e.g. channel, start time, duration, etc) provided from the server.

In response to the selection of a program to be recorded by the user, the recording

system (Fig. 1 of Schein et al and element 10 of Klosterman) then carries out an

automatic switching/tuning such that the required program source is input to the

destination device, and the tuner is tuned to the selected program's channel (see

Abstract of Klosterman).

Appellant asserts on pages 12-13 and 23-24 of the Brief that neither Schein et al

nor Klosterman discloses a second request for recording instructions. However, one of

ordinary skill in the art would have recognized that the present invention is merely a

VCR programming method applied through the internet as opposed to the conventional

broadcast or Cable TV Company. To explain in simple terms, as illustrated in Figure 19

of appellant's drawings, the "first request" in the claims is clearly met by Fig. 11 of

Schein et al as it is merely referring to the act of a user "requesting" permission to log in

at a website. That is, turning on a computer, opening a web browser, type in the

website address, and entering the user name and password, all through the use of PC

TV 602. Once this "first request" is granted (i.e. upon logging in the website), one of

ordinary skill in the art would have no difficulty in navigating the site, in this case, a TV

guide database 608. The user then makes a "second request" by selecting a program

to record a TV program using PC TV 602, consistent with Figure 23 of appellant's

drawings.

Appellant continues to assert on pages 14-17 and 19-23 of the Brief that neither

Schein et al nor Klosterman discloses the particular steps of "a request" "received at the

server". However, such requests are merely mouse clicks or the user pushing the enter

key on his/her keyboard. One of ordinary skill in the art would have no difficulty in

recognizing that a computer command is not "sent" until the mouse button is clicked or

the enter key is "hit". Only after such actions would the server 608 of Schein et al be

able to "receive" the user selection "request" from the recording system 602. And "in

response to" such a request, the web page (server) of Schein et al would display

(transmit) the next web page corresponding to the user's request.

Appellant asserts on page 18 of the Brief that there is no discussion in

connection with Fig. 11 of Schein et al for recording a TV program. However, one of

ordinary skill in the art would have had no difficulty in recognizing that the PC TV 602

(and 362 in Fig. 10) is merely an overview illustration of the computer system coupled to

a TV system (Fig. 1) in the internet environment.

Appellant asserts on page 25 of the Brief that neither Schein et al nor Klosterman

discloses a record command. However, one of ordinary skill in the art would have had

no difficulty in recognizing that the start time, duration, and channel number of the

program to be recorded may be viewed as recording commands in their broadest

reasonable sense, consistent with appellant's disclosure.

Appellant asserts on pages 25-26 of the Brief that neither Schein et al nor Klosterman discloses that the programming information available is based on the user's caller ID. However, one of ordinary skill in the art would have had no difficulty in recognizing that the cable system 510 of Schein et al is inherently dependent on the user's area code (e.g. through cable modem 518). That is, only programming information of his/her local cable provider would be available, based on his/her cable subscription.

In response to appellant's argument on pages 26-27 of the Brief that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., end-of VCR control information is a marker or a flag in a transmission stream that indicates that transmission of all of the VCR control information has been completed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Finally, appellant asserts on pages 27 of the Brief that neither Schein et al nor Klosterman discloses a binary ASCII-format character string. However, ASCII is built into all personal computers. Therefore, one of ordinary skill in the art would have had no difficulty in recognizing that the PC TV of Schein et al would inherently utilize ASCII-format character strings for control functions.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and

Interferences section of this examiner's answer are provided herein.

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Young Lee/

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